

**Subpart B—EPA's NEPA
Environmental Review Procedures****§ 6.200 General requirements.**

(a) The Responsible Official must determine whether the proposed action meets the criteria for categorical exclusion or whether it requires preparation of an EA or an EIS to identify and evaluate its environmental impacts. The Responsible Official may decide to prepare an EIS without first undertaking an EA.

(b) The Responsible Official must determine the scope of the environmental review by considering the type of proposed action, the reasonable alternatives, and the type of environmental impacts. The scope of an EIS will be determined as provided in 40 CFR 1508.25.

(c) During the environmental review process, the Responsible Official must:

(1) Integrate the NEPA process and the procedures of subparts A through C of this part into early planning to ensure appropriate consideration of NEPA's policies and to minimize or eliminate delay;

(2) Emphasize cooperative consultation among federal agencies, state and local governments, and federally-recognized Indian tribes before an EA or EIS is prepared to help ensure compliance with the procedural provisions of subparts A through C of this part and with other environmental review requirements, to address the need for inter-agency cooperation, to identify the requirements for other agencies' reviews, and to ensure appropriate public participation.

(3) Identify at an early stage any potentially significant environmental issues to be evaluated in detail and insignificant issues to be de-emphasized, focusing the scope of the environmental review accordingly;

(4) Involve other agencies and the public, as appropriate, in the environmental review process for proposed actions that are not categorically excluded to:

(i) Identify the federal, state, local, and federally-recognized Indian tribal entities and the members of the public that may have an interest in the action;

(ii) Request that appropriate federal, state, and local agencies and federally-recognized Indian tribes serve as co-operating agencies consistent with 40 CFR 1501.6 and 1508.5; and

(iii) Integrate, where possible, review of applicable federal laws and executive orders into the environmental review process in conjunction with the development of NEPA documents.

(d) When preparing NEPA documents, the Responsible Official must:

(1) Utilize a systematic, interdisciplinary approach to integrate the natural and social sciences with the environmental design arts in planning and making decisions on proposed actions subject to environmental review under subparts A through C of this part (see 40 CFR 1501.2(a) and 1507.2);

(2) Plan adequate time and funding for the NEPA review and preparation of the NEPA documents. Planning includes consideration of whether an applicant will be required to prepare an EID for the proposed action.

(3) Review relevant planning or decision-making documents, whether prepared by EPA or another federal agency, to determine if the proposed action or any of its alternatives have been considered in a prior federal NEPA document. EPA may adopt the existing document, or will incorporate by reference any pertinent part of it, consistent with 40 CFR 1506.3 and 1502.21.

(4) Review relevant environmental review documents prepared by a state or local government or a federally-recognized Indian tribe to determine if the proposed action or any of its alternatives have been considered in such a document. EPA will incorporate by reference any pertinent part of that document consistent with 40 CFR 1502.21.

(e) During the decision-making process for the proposed action, the Responsible Official must:

(1) Incorporate the NEPA review in decision-making on the action. Processing and review of an applicant's application must proceed concurrently with the NEPA review procedures set out in subparts A through C of this part. EPA must complete its NEPA review before making a decision on the action.

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(2) Consider the relevant NEPA documents, public and other agency comments (if any) on those documents, and EPA responses to those comments, as part of consideration of the action (see 40 CFR 1505.1(d)).

(3) Consider the alternatives analyzed in an EA or EIS before rendering a decision on the action; and

(4) Ensure that the decision on the action is to implement an alternative analyzed or is within the range of alternatives analyzed in the EA or EIS (see 40 CFR 1505.1(e)).

(f) To eliminate duplication and to foster efficiency, the Responsible Official should use tiering (see 40 CFR 1502.20 and 1508.28) and incorporate material by reference (see 40 CFR 1502.21) as appropriate.

(g) For applicant-related proposed actions:

(1) The Responsible Official may request that the applicant submit information to support the application of a categorical exclusion to the applicant's pending action.

(2) The Responsible Official may gather the information and prepare the NEPA document without assistance from the applicant, or, pursuant to Subpart C of this part, have the applicant prepare an EID or a draft EA and supporting documents, or enter into a third-party agreement with the applicant.

(3) During the environmental review process, applicants may continue to compile additional information needed for the environmental review and/or information necessary to support an application for a permit or assistance agreement from EPA.

(h) For all NEPA determinations (CEs, EA/FONSIs, or EIS/RODs) that are five years old or older, and for which the subject action has not yet been implemented, the Responsible Official must re-evaluate the proposed action, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the action and complete an appropriate NEPA document or reaffirm EPA's original NEPA determination. If there has been substantial change in the proposed action that is relevant to environmental concerns, or if there are significant new cir-

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cumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, the Responsible Official must conduct a supplemental environmental review of the action and complete an appropriate NEPA document.

§ 6.201 Coordination with other environmental review requirements.

Consistent with 40 CFR 1500.5(g) and 1502.25, the Responsible Official must determine the applicability of other environmental laws and executive orders, to the fullest extent possible. The Responsible Official should incorporate applicable requirements as early in the NEPA review process as possible.

§ 6.202 Interagency cooperation.

(a) Consistent with 40 CFR 1501.5, 1501.6, and 1508.5, the Responsible Official will request other appropriate federal and non-federal agencies to be joint lead or cooperating agencies as a means of encouraging early coordination and cooperation with federal agencies, state and local governments, and federally-recognized Indian tribes with jurisdiction by law or special expertise.

(b) For an EPA action related to an action of any other federal agency, the Responsible Official must comply with the requirements of 40 CFR 1501.5 and 1501.6 relating to lead agencies and cooperating agencies, respectively. The Responsible Official will work with the other involved agencies to facilitate coordination and to reduce delay and duplication.

(c) To prepare a single document to fulfill both NEPA and state or local government, or federally-recognized Indian tribe requirements, consistent with 40 CFR 1506.2, the Responsible Official should enter into a written agreement with the involved state or local government, or federally-recognized Indian tribe that sets out the intentions of the parties, including the responsibilities each party intends to assume and procedures the parties intend to follow.

§ 6.203 Public participation.

(a) *General requirements.* (1) The procedures in this section apply to EPA's environmental review processes, including development, supplementation,